

18 November 1958

MEMORANDUM FOR THE RECORD

**SUBJECT: Alien Language Instructors of the Foreign Service
Institute**

1. Talked at some length with Ed Lyerly, Legal Advisor's Office, Department of State. He pointed out that the instructors originally were hired as independent contractors to avoid application of the prohibition against employment of aliens. Originally the fact situation met the contract in that they were only used for one or two lectures a week but subsequently they were used pretty much on a full time basis.

2. Subsequently the Internal Revenue Service has queried their status and apparently is preparing to issue a ruling that they are employees. Consequently it is likely that GAO would follow the same path. Lyerly stated that the matter has not been forced on them from either the Congress or other outside sources. In fact they are proposing to solve the problem by either of two methods - (1) corrective legislation in amendments to the Foreign Service Act or (2) by including further exception in the annual appropriation.

3. Lyerly agreed completely with our difficulties in seeing any reasonable way in which we could assist in this problem. In any event, it was his view that the Department could probably ride out the situation, arguing, if the questions were raised, that these people are independent contractors and not within the law. Even if this argument is lost, he felt they had a reasonable chance of granting their pay on a quantum merit basis.

4. This information was relayed to [] who is going to advise his contacts simply that we have looked into the matter thoroughly and see no possible way we can help in this that would be legal or that

25X1

would not appear to be a subterfuge insofar as the intent of Congress is concerned.

S/ JOHN S. WARNER

JOHN S. WARNER
Legislative Counsel

cc: OTR

LC
OGG Subject - Foreign Serv. Act Amend.
OGG Chrono.
LC